

# [***Conservative justices suggest South Carolina GOP gerrymandering was based on politics, not race***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:69CB-J0F1-JBSS-S01B-00000-00&context=1516831)

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**Body**

(CNN) &#8212; The [*Supreme Court*](https://www.cnn.com/politics/supreme-court)'s conservatives expressed doubt at oral arguments Wednesday that South Carolina GOP lawmakers engaged in impermissible racial gerrymandering when they redrew congressional lines for a House seat to benefit Republicans.

The case is one of several racial and political gerrymandering-related lawsuits that could impact which party controls the House after next year's congressional elections.

The district at issue was reworked in 2020 to benefit the GOP and current incumbent, Rep. Nancy Mace - one of the eight Republicans who voted to oust Kevin McCarthy as House speaker last week.

The South Carolina State Conference of the NAACP and a Black voter named Taiwan Scott say the use of race dominated the decision-making process and that the state worked to intentionally dilute the power of Black voters. A federal court agreed, referring to the revised map as "bleaching."

Several of the conservative justices on Wednesday suggested that map drawers had taken ***politics*** into consideration, not race.

Chief Justice John Roberts said those challenging the map had "no direct" evidence that race had predominated in the decisionmaking process. He said that there were no "odd-shaped" districts drawn and that there existed a "wealth of political data" that would justify the chosen boundaries. He said the challengers had only presented "circumstantial evidence" and suggested the court would be "breaking new ground" in its voting jurisprudence if it were to side with them.

Justice Samuel Alito repeatedly suggested that a lower court had made serious legal error in invalidating the map by relying upon erroneous expert testimony. He said the Supreme Court could not "rubber-stamp" the district court's finding and he noted that the individual charged with drawing the maps had years of experience and had worked for both Democrats and Republicans.

Alito contended that there was "nothing suspicious" if a map drawer is aware of race as long as it is not a predominant factor when drawing lines.

Justice Neil Gorsuch said there was "no evidence " that the legislature could have achieved its "partisan tile in any other way."

For their part, the liberals on the court suggested that the Republican-controlled South Carolina Legislature adopted the maps by considering race as a predominant factor, in violation of the equal protection clause of the US Constitution.

Justice Sonia Sotomayor said that Republicans were launching "pot shots" at the experts who claimed the maps could only be explained by race. Justice Ketanji Brown Jackson noted that the challengers are not required to produce a "smoking gun" to prove their point.

The dispute comes as the justices this year [*ordered Alabama to redraw its congressional map*](http://www.cnn.com/2023/09/08/politics/supreme-court-voting-rights-kavanaugh-alabama/index.html) to account for the states' 27% Black voting population. That decision, penned by Roberts, came as a welcome relief to liberals who feared that the court was poised to make it harder for minorities to challenge maps under Section 2 of the historic Voting Rights Act. A federal court approved a new map last week that significantly boosts the Black population in a second district, which could lead to the pickup of a Democratic seat next year.

The South Carolina case raises different questions rooted in the Constitution concerning when a state crosses the line between permissible partisan goals and illegal racial discrimination.

The state chapter of the NAACP and Scott are challenging the state's 1st Congressional District, located along the southeastern coast and anchored in Charleston County. Although the district consistently elected Republicans from 1980 to 2016, in 2018 a Democrat was elected in a political upset.

Two years later a Republican candidate, Mace, regained the seat in a close race. When the state House and Senate began considering congressional reapportionment in 2021, the Republican majorities sought to create a stronger GOP tilt in the district, one of seven in the state. A new map could make the seat more competitive.

After an eight-day trial featuring 42 witnesses and 652 exhibits, a [*three-judge district court panel*](https://vhdshf2oms2wcnsvk7sdv3so.blob.core.windows.net/thearp-media/documents/Findings_of_Fact_and_Conclusions_of_Law_1.6.23.pdf) in January held that District 1 amounted to an unconstitutional racial gerrymander in violation of the Equal Protection Clause of the 14th Amendment because race was the predominant factor in the district's reapportionment plan.

"To achieve a target of 17% African American population," the court said, "Charleston County was racially gerrymandered and over 30,000 African Americans were removed from their home district." The court referred at one point to the "bleaching" of Black voters out of the Charleston County portion of the district.

"State legislators are free to consider a broad array of factors in the design of a legislative district, including partisanship, but they may not use race as a predominant factor and may not use partisanship as a proxy for race," the court concluded.

South Carolina Republicans, led by state Senate President Thomas Alexander, appealed the decision to the Supreme Court, arguing that the maps had not been drawn impermissibly based on race, but instead with ***politics*** in mind.

The person who devised the map testified in federal court that he was instructed to make the district "more Republican leaning," but that he did not consider race while drawing the lines. He did, however, acknowledge that he examined racial data after drafting each version and that the Black voting-age population of the district was viewed during the drafting process.

"If left uncorrected, the panel's holding would place States in an impossible bind by exposing them to potential racial gerrymandering liability whenever they decline to make majority-white, modestly-majority Republican districts majority-Democratic," argued John Gore, a lawyer for the Republicans.

Mace filed a [*friend-of-the-court brief*](https://www.documentcloud.org/documents/24024996-nancy-mace-amicus-brief) with the high court in support of the Republicans, charging that the lower court "ignored one of the most important traditional districting principles - the preservation of the core of existing districts."

Joined by other GOP members of Congress from South Carolina, Mace argued that constituent services, voter education and the seniority of long-serving members of the House are "vital interests" and that the lower court was "bent on destroying the legislatures' duly enacted and carefully negotiated map."

Lawyers for the NAACP Legal Defense and Educational Fund told the justices in court papers that the state impermissibly used race as a predominant factor when drawing the district.

"Using race as the predominant means to sort voters is unconstitutional even if done for partisan goals," they argued.

They said the lower court made clear that the state "intentionally exiled more than 30,000 Black Charlestonians from CD1 predominately because of their race."

This story has been updated with additional developments.

CNN's Fredreka Schouten contributed to this report.

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